March 21, 2007

Mr. Chairman, members of the committee,

I am Mark Fix, Chair of the Northern Plains Resource Council.

I am a rancher and irrigator on the Tongue River 20 miles SW of Miles City.

As I look around this room I recognize folks I have seen throughout my time as both a member and chair of Northern Plains Resource Council. The proponents of the bill told you that allowing the careless and irresponsible discharge of coal bed methane water is a good thing for Montana and a good thing for the coal bed methane extractive industry. I beg to differ as this is legislation that serves to protect an out-of-state and short-term industry. Doesn't the old saying go, "look out for #1?" In this case, #1 is the most prominent industry in Montana. That industry is agriculture, which I am proud to be a member of. Please remember that as I discuss why Northern Plains Resource Council strongly opposes House Bill 383.

This bill should be considered unconstitutional. Standards were set for water quality of the Tongue River, Powder River and Rosebud Creek in order to protect Montana's water. Water quality standards were also set for the tributaries to these streams. The discharge of CBM water into a pond or an ephemeral stream is a violation of the standard. These standards help protect the quality of water for ranchers and irrigators all along these creeks and are vital to the sustainability of my operation. Coal bed methane wastewater cannot meet these standards. Northern Plains worked for years with the Board of Environmental Review (BER) to set standards and to establish a rulemaking process to protect Tongue, Powder and Rosebud Creek. It is a slap in the face to bring legislation forward like this that ignores all the work the BER has done on this issue

HB 383 exempts coal bed methane water from these important pollution control standards and by doing so, threatens my ranch and the future of my friend's operations who are gathered here today.

Right now, Montana is defending the same water quality standards I just mentioned in a lawsuit brought by the state of Wyoming.

By considering HB 383, the Montana Senate would lift these standards for CBM companies in Montana. If this bill passes the Senate, how would we protect our water from the massive amounts of coal bed methane water being dumped in the Tongue and other rivers by our neighbors to the south? Water quality in Montana must be protected. House bill 383 will not do that.

We that raise stock know that you must conserve water because one day it will be gone. If water is to be beneficially used it should be put into stock tanks not reservoirs or impoundments. All of us have had to deal with wells that go dry or malfunction. It is poor practice to pump a well and put the water into a reservoir, as much of the water soaks away and is wasted. The water will is more susceptible to evaporation in a reservoir then in a tank. We need to conserve our water. House bill 383 will not do that

When the methane industry first started in Montana I got to go on a tour of the operation. Water was being pumped into a tank, and the overflow ran down into a pond. That dam was full and another was built right below it, that dam was also full. The water then ran over that dam and went about ½ mile downstream and filled another dam. That dam ran over and proceeded to run into the Tongue River. This is a waste of water. The water can be and should be used in stock tanks, treated or reinjected back into the aquifers it came from to preserve it for future generations. House bill 383 will not do that

In addition to the water quantity concern is the water quality concern. The Tongue River exceeded the water quality standards at Miles City all of last summer. No enforcement was done of this violation. One of the irrigators on the Tongue and Yellowstone Irrigation district had crop failures on his fields that may be attributed to the water quality degradation from the CBM discharges. This is a taking of this irrigator's property. What will the land be worth if it can no longer grow crops? What happened to the protection of property rights? It seems that no one cares about the individual operator anymore. All we hear is that regulation impedes development. Well, let me tell you something: if your idea of development is losing Montana's number one industry, agriculture, to make it easier for a bunch of out of state energy execs to make a buck, then we all need to reconsider what this legislature is all about. The legislature should protect our property rights and the right of Montana's farm and ranch family's to make a living. House bill 383 will not do that.

Proponents came here today to tell you that they need this water. They say that CBM companies are going to give them water for their livestock. While I sympathize with my neighbors, this bill presents bad water management practices.

I am here today to tell you that this bill is not about ranchers, or livestock. It is about disposing of what CBM companies call a "by-product." Let me remind the committee, that this byproduct is in fact Montana's most valuable resource, water. Instead of legislating on behalf of CBM companies, I think we should work together to ensure that all of Montana's water will be conserved for future generations and for its true number 1 industry, agriculture. House bill 383 will not do that.

I strongly urge the members of the committee to vote no on House bill 383.

Submitted by Mark Fix, on 3/21/07. (406) 421-5460